1951 **File No.** Sasanjams and Jahagirs. II/51 (R)

Legal Department

B **BRANCH.**

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Subject:— Rules Re Sasanjams Jahagirs, and other Inams ~~and~~ of Political nature

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File No. Sasanjams and Jahagirs II/51 (R)

Gen. 194 e.

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The proposal in these papers is that legislation should be drafted for the abolition of sarabjams and jahagirs in the Bombay State proper. As regards such tenures in the merged States, it is stated in R.D. note dated 27th November 1950 (p.43 ante) that the inquiry regarding the said tenures in all merged States is not yet complete. As regards the legislation for the abolition of the said tenures in the Bombay State it is stated:-

(1) The Bill should provide for the abolition of the non-treaty saranjams and the treaty saranjams guarnateed to the rulers of the merged Indian States in the Deccan and Southern Maratha Country. It is added that the saranjam properties of the Rulers which are guaranteed by the agreements of merger should not be affected.

(2) The saranjams which are of the entire villages whether of the soil or of the land revenue should be resumed outright.

(3) The lands forming part of the saranjams should be regranted on payment of the occupancy price.

(4) Where the sarnajam is a grant of land revenue, the resumption should be by way of the levy of full assessment.

(5) Cash allowances payable to the holders of saranjams should be abolished.

(6) Alienations which may have been for justifiable necessity or bona fide should not be affected.

(7) The method of compensation is laid flown in para 18 of R.D. note.

The other details to be included in the proposed

legislation are set out in R.D. and P. & S. Deptt. notes.

2. Inmaking the proposal for legislation for the abolition of saranjam and jahagir tenures it appears that the Administrative Departments have entirely missed the real nature or character of thse grants. It is true that whatever may be the points of difference or distinction between a saranjam and a jahagir during the pre-British period, since commencement of the British regime the two tenures are convertible and no distinction from a legal point of view actully exists between the two. From the earliest times since the advent of the British regime, Government have framed rules for determining the tenures to which the continuance of jahagirs and saranjams and other alienations of a political nature arew subeject. The Rules at present in force are made by G.R.(P.D.) No.2674 dated 5th May 1898 as amended by G.R. (P.D.)No. 4684 dated 29th June 1901. These Rules have been published in the Bombay Government Gazette and have made as is shown in the preamble to the said Rules, in exercise of powers refererred in ryle 10 of Schedule B of Act XI of 1852 and section 2(3)(2) of Bombay Act VII of 1863. But as pointed out by the Full Bench of the Bombay High Court in Daulatrao v. Province of Bombay, 49 Bom L.R. 270 the rules are rules of convenience only. They do not exhaust the general power of Government or prevent Government from making any decision or determination refereable to a particular saranjam. In the same case it is observed "the whole structure of the saranjam tenure is founded in the soverign right which can only be changed by conquest or by treaty. So founded jahagirs or saranjams with the feudal incidents connected with them, are granted or withheld <u>at the will or pleasure</u> of the sovereign power, and if granted the fixity of

tenure is always subject to interrruption or revocation by resumptionbe it temporary or absolute in character." This decision of the Bombay High Court is consistent with earlier decisions of the said Court and is supported by legislative enactments from the earliest times. Section 38 of Bombay Regulations XVII of 1827 provided that land held exempt as jahagir shall be liable to re-sumption and assessment under the general rules at the pleasure of Government. This principle was repeated in Bombay Reg-VI of 1833 (Sec 1(3). Rule 10 in Schedule B of Act XI of 18-52, section 1(2) of Bombay Act II of w1863, and section 2(2) of Bombay Act VII of 1863). If therefore the saranjam or jahagir grants are continuable at the will or pleasure of the sovereign power, it is clear that as pointed out by the Bombay High Court, they are resumble whether absolutely or temporarily at the will orpleasure of the Executive Government. This point was recently considered in connection with the Kolhapur Saranjams by this office and the Advocate General (Shri Daphtary). The Advocate General agreed with this office that no legislation was necessary for the resumption of such grants (see U.R.to P.& S.D No. 399-Confl. dated 29th April 1951 and its accompaniments).

3. For the above reasons Rules for the resumptionof those grants are sent herewith. These rules do not provid for the regrant of the lands resumed and the regrant of them on occupancy tenures. Such a provision would not properly be included in these rules. If Government so desire, such regrant can be made under the Bombay Land Revenue Code and the rules thereunder. After the Rules are approved from the administrative point of view, they will be finally settled in consultation with the Advocate General.

Sd. J.R.Dhurandhar,
16/10

Remembrancer of Legal Affairs.

P.T.O.

To enable this Department to draft the necessary Bill, the Revenue Department is requested to furnish a statement in the form of series of propositions detailing all the provisions which should be made in the Bill. It appears that the question of financial implications has not as yet been examined. The question whether similar Inams and Saranjams in the merged areas should be abolished has also not been examined.

The question of compensation will have to be examined in greater detail. It is not clear whether it is intended to abolish cash allowances. Similarly questions relating to other matters such as personal Inams will have to be settled. The Department should therefore examine all such questions thoroughly, obtain orders of Government specifically in the propositions to be included in the draft Bill and then refer these papers to this Department for drafting the Bill.

Sd. J.R.Dhurandhar,
26/8

Additional Secretary to Government.

U.R. to R?D?No. 12271, dated the 28th August 1950.

VGP. 5-7-56.

The settlement proposed in the statement made by H.M. at the Conference held on 19th March 1952 will have to be given effect to by,

(1) the issue of Sanads declaring the grant in saranjam of the revenues of the lands and of the other properties to be held by the holders;

(2) making rules for the continuation and the conditions on which the Saranjams are to be held;

(3) making an amendment to the Bombay Charged Expenditure Act, declaring the payments to be made to be a charge on the consolidated revenues of the State.

In the case of the Rulers of the former Indian States, they were not subject to the laws of the Indian Dominion when the merger took place and the settlement with them had to be made by way of political agreements. The feudatory Jahagirdars, as pointed out in the Opinion of the R.L.A. and the Advocate General, were tenure holders in the Kolhapur State and as agreed to by the Government of India, the tenure on which they held thier Jahagirs or the settlement made with them by the Ruler of Kolhapur is not binding on the Bombay Government and can be repudiated. They can hold lands on such tenure and on such conditions as Government would be willing to recognize. It is now decided that they are not to be given any right other than that of saranjamdars. The conditions on which the grants in Saranjam are to be made

made will have to be on lines similar to that on which Saranjams are ordinarily held in the State of Bombay. The rules are, therefore, drafted on the lines of the Saranjams rules of 1898. The Sanads will evidence the grant and the rules will regulate their continuation. As suggested by the Government of India, the net revenues to be paid to the Saranjamdars will have to be charged on the Consolidated revenues. The settlement proposed will not offend the guarantee of equality under article 14 of the Constitution, as owing to the peculiar position held by the Saranjamdars as Feudatories and the special rights, previleges and powers held and exercised by them, they can be included into a special class. Such classification will not be discriminatory and therefore open to any objection. A copy of ~~this notification under the~~ this note together with the accompaniments has been handed over ~~the~~ to Secy R.D. for Secretary security.

Sd. J.R.DHURANDHAR:
24/3

Chief. Secy.

VGP. 5-7-56.